

**REMARKS**

Claims 1, 3 and 6-13 are pending in the application, and are rejected.

**Claim Rejections - 35 U.S.C. §103(a)**

Claim 1, 3 6-11 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sakaya et al. (US 5,942,298) in view of Gregorich et al. (Can. J Soil Sci. 68: 395-403) with Encyclopedia Britannica (<http://www.britannica.com/EBchecked/topic/288836/inorganic-soil>) and Easton et al. (Trans. Faraday. Soc. 1952, 48, 796-801) used for evidentiary value.

Applicants note that these rejections are substantially identical to the previous rejections of the claims, which were traversed by Applicants.

The Examiner still notes that Gregorich et al. is used solely to teach that it is known in the art to use hydrogen peroxide in dispersions of inorganic compounds. The Examiner further notes that Gregorich et al. is used for materials such as clays.

The Examiner concluded that one would have been motivated to combine the dispersion process of Gregorich et al. with the invention of Sakaya et al. because the films of Sakaya et al. are formed from a dispersion process, and Gregorich et al. teaches that peroxide enhances dispersion of inorganic materials.

Applicants respectfully submit that the Examiner is mischaracterizing the soil mixture of Gregorich et al. as "inorganic". Clearly, and for reasons previously stated, it is a mixture of organic material and inorganic material.

Applicants respectfully submit that the Examiner is still mischaracterizing the teaching of Gregorich et al. as motivation for one skilled in the art to have used peroxide with all dispersions, rather than just its mixture of organic and inorganic material.

The Examiner previously noted that obviousness under §103 is not negated merely because the motivation as disclosed by the prior art does not agree with Applicants' motivation, and that it is enough that there is any motivation to combine the references. In response, Applicants maintain that there is no motivation whatsoever to use the teaching of Gregorich et al. with the invention of Sakaya et al.

Applicants submit that it is clear that Gregorich et al. appears to provide some motivation for one skilled in the art to have used peroxide to facilitate dispersion of *soil containing some inorganic materials to be removed*, because Gregorich et al. teaches that hydrogen peroxide is effective in disrupting silt aggregates, and presumably therefore enhancing dispersion in comparison to lower levels of ultrasonic energy (page 400, first full paragraph).

Gregorich et al. notes that, "the peroxide treatment is ineffective in dispersing sand-sized microaggregates may due to failure of the peroxide to destroy completely *organic matter within sand-sized aggregates*."

Applicants submit that the above passage teaches that peroxide is effective in disrupting silt aggregates that contain significant amounts of organic matter within them *only because peroxide destroys the organic matter within the silt aggregates*. Because of this, Gregorich et al. is not seen as suggesting that peroxide is effective in disrupting silt aggregates that do not contain significant amounts of organic matter. Therefore, Applicants submit that there is no

motivation to apply peroxide to a dispersion that contained inorganic material but no significant amounts of organic material, such as that of Sakaya et al.

The only motivation for one to have used peroxide when preparing the inorganic layered compound of Sakaya et al. would have been if the inorganic layered compound of Sakaya et al. contained organic material that needs to be destroyed. Such is not the case.

The Examiner disagrees with Applicant's interpretation of the first column on page 400 of the Gregorich reference. The Examiner's argues as follows:

Gregorich et al. teach that hydrogen peroxide was not as effective destroying the completely organic matter, and therefore if there were no organic matter (presumably as in Sakaya et al.), the hydrogen peroxide would be effective.

Applicants take issue with this logic, and submit that such is akin to, for example, noting that a single fishing line is not as effective as fishing with a net, and assuming therefore that if there were no fish, the fishing line would be effective. Of course, the response in such a scenario would be that if there were no fish, asserting any effectiveness of fishing line would be meaningless, just as in the present situation wherein the Examiner asserts that an agent taught as an organic-matter destroying agent would be effective in the absence of organic matter.

Upon the removal of the secondary reference Gregorich et al., Applicants submit that there is no prima facie rejection for obviousness.

In view of the aforementioned remarks, Applicants submit that the claims are in condition for allowance. Applicants request such action at an early date.

Application No. 10/524,680  
Attorney Docket No. 043210

Response under 37 C.F.R. §1.111  
Response filed April 27, 2009

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,  
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